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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON
DEPUTY

NO. 49222-9-II
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

In re the Matter of the Estate of

DEBORAH E. REID,

Deceased.

APPEAL FROM THE SUPERIOR COURT

HONORABLE SUZAN CLARK

REPLY BRIEF

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Table of Contents

Introduction.....	1
Argument.....	2
Reply on Assignment of Error No. 1.....	2
I. A Decree of Adoption Does Not Terminate the Parent-Child Relationship between the Natural Parent and the Adoptee.....	2
II. There Was No Termination Order, and There Was No Relinquishment Proceeding.....	4
III. Cases from Other Jurisdictions Are Not Helpful.....	7
IV. Brandon Remains a Child of the Decedent Even Though He Cannot Inherit from Her.....	9
V. Personal Representatives Will Not Be Burdened by Holding That Adoptees Are Statutory Beneficiaries.....	14
VI. Using the Common Definition of the Term, Brandon is a Child of the Decedent.....	15
VII. Including Adoptees as Children for the Purposes of the Wrongful Death Statutes Will Not Lead to a Strained Result.....	16
VIII. Judicial Estoppel Requires that Brandon Be Deemed a Child of the Decedent...	17
Reply on Assignment of Error No. 2.....	20
Conclusion.....	21

Table of Authorities

Cases:

<i>Armijo v. Wesselius</i> , 73 Wn.2d 716, 440 P.2d 471 (1968).....	15
<i>Donnelly's Estate</i> , 81 Wn.2d 430, 502 P.2d 1163 (1973).....	11
<i>Cunningham v. Reliable Concrete Pumping, Inc.</i> , 126 Wn.App. 222, 108 P.3d 147 (2005).....	18
<i>Deveny v. Hadaller</i> , 139 Wn.App. 605, 161 P.3d 1059 (2007).....	18
<i>Estate of Wiltermood</i> 78 Wn.2d 238, 472 P.2d 536 (1970).....	11
<i>Gessner v. Powell</i> , 238 So.2d 101 (Fla. 1970).....	7
<i>Hale v. Department of Labor and Industries</i> , 20 Wn.2d 14, 145 P.2d 285 (1944).....	1, 8, 9, 10, 11, 12
<i>In re Dependency of M.H.P.</i> , 184 Wn.2d 741, 364 P.3d 94 (2015).....	3
<i>Industrial Coatings Co. v. Fidelity and Deposit Company of Maryland</i> , 117 Wn.2d 511, 817 P.2d 393 (1991).....	12
<i>Johnson v. Si-Cor, Inc.</i> , 107 Wn.App. 902, 28 P.3d 231 (2001).....	19
<i>Lane v. Harborview Medical Center</i> , 154 Wn.App. 279, 227 P.3d 297 (2010).....	16
<i>Lunsford v. Saberhagen Holdings, Inc.</i> , 166 Wn.2d 264, 208 P.3d 1092 (2009).....	12
<i>Powell v. Gessner</i> , 231 So.2d 50 (Fla.App. 1970).....	7
<i>Roderick's Estate</i> , 158 Wash. 377, 291 P. 325 (1930).....	1, 2, 6, 8,9,10, 11, 12

Taylor v. Bell, 185 Wn.App. 270, 340 P.3d 951 (2014).....19

Wasley v. Brown, 193 F.Supp. 55 (E.D. Va. 1961).....7

Washington Statutes:

RCW 4.20.020.....9, 10, 13

RCW 11.04.085.....9, 11

RCW 26.33.010.....3

RCW 26.33.130(2).....3, 4

RCW 26.33.260(1).....2, 3, 8

RCW 26.33.343 - .347.....13

Washington Session Laws:

1984 Laws of Washington, Chapter 155, Section 8(1).....4

1984 Laws of Washington, Chapter 155, Section 9(3).....4

1984 Laws of Washington, Chapter 155, Section 13(1).....3

Statutes from States Other Than Washington:

FSA § 63.172(b)..... 8

Other Authority:

Uniform Adoption Code of 1969.....2

1994 Uniform Adoption Act.....2

INTRODUCTION

In the main, the briefs submitted on behalf of Laureenne Reid (Laurenne) and Dillon Reid-Troxel (Dillon) have not attempted to refute the arguments advanced by Brandon Saludaes (Brandon) that he is a child of Deborah Reid (the Decedent) for the purposes of the wrongful death statute. Rather, Dillon and Laureenne have advanced different arguments. The points made in the Brief of Appellant demonstrate why most of those arguments are infirm. On those occasions, the reader will be referred to the relevant portions of the Brief of Appellant to avoid repetition. Other matters will be addressed accordingly. All factual rejoinders will be made part of the discussion of the topic to which each rejoinder applies.

In *Roderick's Estate*, 158 Wash. 377, 291 P. 325 (1930), the Court stated that an adoptee remains a child of his natural parent in the absence of a statute to the contrary. And in *Hale v. Department of Labor and Industries*, 20 Wn.2d 14, 174 P.2d 285 (1944), the Court stated, "We are committed to the rule that a by decree of adoption a decree of adoption there is no dissolution of the natural relationship of kindred and that an adopted child will not be deprived of the benefits arising from such natural relationship." Under the teaching of those two cases, Brandon clearly remains a child of the Decedent notwithstanding his adoption by her mother and stepfather. Laureenne and Dillon have not even mentioned

those two cases in their briefs or shown how they do not apply. For that reason, among others, their arguments must be rejected.

ARGUMENT

REPLY ON ASSIGNMENT OF ERROR NO. 1

I. **A Decree of Adoption Does Not Terminate the Parent-Child Relationship between the Natural Parent and the Adoptee.**

Dillon and Laureenne first argue that RCW 26.33.260(1) has the effect of terminating the parent-child relationship because it states, among other things, that the adoptee becomes the child of his or her adoptive parents. Brief of Respondent (Dillon, pps. 13-14)¹ This argument is incorrect. First of all, the statute—unlike similar statutes in other jurisdictions, the Uniform Adoption Code of 1969, and the 1994 Uniform Adoption Act—does not state that adoption terminates the parent-child relationship between the natural parent and the adoptee. Second, the Washington Supreme Court held in *Roderick's Estate, supra*, that a statute not materially different from RCW 26.33.260(1) did not have the effect of terminating the parent-child relationship between the adoptee and the

¹ The Brief of Respondent filed on behalf of Dillon will be referred to as Brief of Respondent (Dillon). The Brief of Respondent filed on behalf of Laureenne will be referred to as Brief of Respondent (Laurenne). The brief submitted on behalf of Laureenne states that it joins in all arguments made on behalf of Dillon on pages 1, 4, and 10.

natural parent. Rather, the adoptee remains the child of both her natural parents and her adoptive parents. See Brief of Appellant, pps. 11-18

The arguments made by Dillon and Laurene also cannot withstand the statutory interpretation canon entitled *expressio unius est exclusio alterius*, or to express one thing in a statute implies the exclusion of the other. Omissions are deemed to be exclusions. *In re Dependency of M.H.P.*, 184 Wn.2d 741, 756-57, 364 P.3d 94 (2015) The legislature has explicitly stated an order of termination of the parent child relationship with whatever effects that order will have follows from the grant of a petition for relinquishment or a petition for termination. 1984 Laws of Washington, Chapter 155, Section 13(1); RCW 26.33.130(2) Brief of Appellant, pps. 20-21 Adoption can proceed, however, without termination or relinquishment. Brief of Appellant, pps. 22-23 If the legislature wanted termination also to follow from a decree of adoption—and in the absence of termination or relinquishment—it would have clearly said so in RCW 26.33.260(1). The absence of language to that effect means that the legislature did not want a decree of adoption by itself to terminate the parent-child relationship.

The statutory interpretation suggested by Dillon and Laurene must be rejected for one other important reason. It is at odds with the legislative intention stated in RCW 26.33.010, that the adoption statutes be

interpreted to promote the best interests of the adoptee. Brandon's best interests will be advanced if the relationship is not deemed terminated by the adoption so that he can share in the wrongful death proceeds.

II. There Was No Termination Order, and There Was No Relinquishment Proceeding.

Brandon's siblings go on to state that the parent-child relationship between Brandon and the decedent was terminated by RCW 26.33.130(2) because the Decedent "relinquished" him. They contend that the Decedent's consent to his adoption amounted to a relinquishment. Brief of Respondent (Dillon), pps. 11-13, 15-16. This argument fails for a number of reasons.

First of all, relinquishment is not a process accomplished by the action of a natural parent. It is initiated by a petition for relinquishment. 1984 Laws of Washington, Chapter 155, Sections 8(1) Relinquishment occurs only if the petition is approved. 1984 Laws of Washington, Chapter 155, Section 9(3); Brief of Appellant, pps. 21-22 Finally, relinquishment is not required for adoption. Brief of Appellant, pps. 22-23

Dillon and Laurene suggest that the consents given by Brandon's natural parents amount to relinquishments. But there is no language in either stating in so many words that either parent "relinquished" Brandon. (CP 65-70) The documents state:

. . .I fully understand that the nature and effect of a decree of absolute adoption is to extinguish and terminate all rights, duties, obligations and liabilities of the parent or parents of the adopted child in relation to the custody, maintenance, and education of the child thereafter; and also to deprive the parent or parents permanently of his or their parental rights in respect to the adopted child.

(CP 65, 68-69) These relate to the effects of adoption and the rights of responsibilities of the parents. They have nothing to do with relinquishment or termination.

More importantly, there can be no termination because no steps that would lead to or follow from termination were ever taken. Brief of Appellant, pps. 20-26 There was no petition for relinquishment or termination as required. The matter was initiated by the filing of a Petition for Adoption. (CP 71-74) There was no hearing on any sort of relinquishment or termination. The citation refers to “adoption.” (CP 60) The word “relinquish” or “relinquishment” does not appear in the Findings of Fact and Conclusions of Law or in the Decree of Adoption. (CP 55-59) Furthermore, the step required after relinquishment or termination—appointing a guardian for the child—was never taken. The adoption proceeding required consents from the natural parents precisely because they had not relinquished Brandon and no termination order had been entered. Had they relinquished Brandon, their consents would not have been necessary. Brief of Appellant, pps. 23-25

Dillon and Laurenne claim that the following language in the Decree of Adoption amounts to an order of termination:

. . .that (Brandon) is constituted the child of the Petitioners DIANE SALUDARES and MICHAEL SALUDARES, and each of them is hereby constituted a parent of the child to the same degree and effect as if the child has been born as the issue of the marriage existing between Petitioners.

(CP 55) First of all, there is nothing in that language that states that the parent-child relationship between Brandon and his natural parents is terminated. It says absolutely nothing about the relationship between Brandon and his natural parents. As the Court stated in *Roderick's Estate*, *supra*, 158 Wash. at 381, such language means that the adoptee is the child of both the natural parents and the adoptive parents in the absence of a statute specifically stating the contrary.

In any event, no order can have a different effect than allowed by statute. When a judgment is lawful in one part but not lawful in another, the part that is not lawful is disregarded as surplusage. Brief of Appellant, pps. 26-27 Since termination is not one of the effects of an adoption decree, no language within that decree can operate to terminate the parent-child relationship between the adoptee and the natural parent.

Once again, Dillon and Laurenne ignore the touchstone of construction and interpretation of the adoption statutes—interpretation to

further the best interests of the adoptee. Their arguments must be rejected for that reason as well.

III. Cases from Other Jurisdictions Are Not Helpful.

Laurenne and Dillon call attention to decisions from other jurisdictions holding that an adoptee cannot sue for the wrongful death of a natural parent. Brief of Respondent (Dillon), pps. 6-10 As noted in Brief of Appellant, pps. 29-32, some of these decisions are understandable because they are based on statutes explicitly providing that adoption terminates the parent-child relationship between the adoptee and the natural parent. This section will address the decisions not discussed in the Brief of Appellant.

The case of *Wasley v. Brown*, 193 F.Supp. 55 (E.D. Va. 1961), interpreting Virginia law, is not helpful. It held that a natural brother could not recover for the wrongful death of his brother who had been adopted by others. It also was based on the notion that the brother could not inherit from the adoptee under Virginia law. 193 F.Supp. at 56. As noted at Brief of Appellant, pps. 31-32, there is no relationship between rights to inherit in Washington and qualifying as a statutory beneficiary under the wrongful death statute.

The case of *Gessner v. Powell*, 238 So.2d 101 (Fla. 1970), which incorporated the opinion of the Court of Appeals in *Powell v. Gessner*,

231 So.2d 50 (Fla.App. 1970), also does not inform the analysis. The Court held that adoption terminated the parent-child relationship between the adoptee and the natural parent based on a statute similar to RCW 26.33.260(1). That decision is not helpful because our Supreme Court has come to the contrary conclusion in *Roderick's Estate, supra*, and *Hale v. Department of Labor and Industries, supra*. Interestingly, Florida has now enacted FSA § 63.172(b) specifically stating that adoption terminates the parent child relationship between the adoptee and the natural parent in the following terms:

- 1) A judgment of adoption, whether entered by a court of this state, another state, or of any other place, has the following effect. . .
 - (b) It terminates all legal relationships between the adopted person and the adopted person's relatives, including the birth parents, except a birth parent who is a petitioner or who is married to a petitioner, so that the adopted person thereafter is a stranger to his or her former relatives for all purposes. . .

At the end of the day, it must be remembered that adoption is a creature of statute. Each state has its own adoption statute and, necessarily, its own jurisprudence concerning adoption. Brief of Appellant, p. 8 We must follow Washington law interpreting the adoption statutes. The Supreme Court has stated in *Roderick's Estate, supra*, that adoption statute does not terminate the parent-child relationship between the adoptee and the natural parent. It also said in *Hale v. Department of*

Labor and Industries, supra, that an adoptee does not lose the benefits of the natural relationship by virtue of being adopted. That means that Brandon remains a child of the decedent for the purposes of the wrongful death statute.

IV. Brandon Remains a Child of the Decedent Even Though He Cannot Inherit from Her.

Dillon and Laureenne also contend that the adoption, intestacy, and wrongful death statutes should all be construed in the same way. In other words, because Brandon cannot inherit from the Decedent, he is also not her child for the purposes of the wrongful death statute. Brief of Respondent (Dillon), pps.6, 11, 17-19 This argument is incorrect. An adoptee remains the child of his natural parent in the absence of a statute terminating some aspect or all of that relationship. That is the teaching of *Roderick's Estate, supra*, 158 Wash. at 381. And adoption does not cut off the benefits the adoptee enjoys based on the natural relationship. *Hale v. Department of Labor and Industries, supra*, 20 Wn.2d at 17

The legislature has enacted RCW 11.04.085. It states that an adoptee is not an heir of his or her natural parents and thus cannot inherit from them. The legislature has not, however, defined the term "child" in RCW 4.20.020 to exclude adoptees. It also has not said that adoption terminates the parent-child relationship between the adoptee and the

natural parent. In other words, while deemed to be familiar with the decisions of the Supreme Court in *Roderick's Estate, supra*, and *Hale v Department of Labor and Industries, supra*, the legislature has chosen not to terminate all aspects of the relationship between the adoptee and the natural parent and specifically has not chosen to eliminate the adoptee's status as a beneficiary under RCW 4.20.020. This means that the relationship between the adoption statutes and the intestacy statutes is different than that between the adoption statutes and the wrongful death statute. Since the relationship is different, and bespeaks a different legislative intent, the two should not be interpreted in the same way. See Brief of Appellant, pps. 11-20

Furthermore, there are considerable differences between the intestacy statute and the wrongful death statute. There are people who can inherit but cannot be statutory beneficiaries of a wrongful death claim. There are also people who can be beneficiaries of a wrongful death claim but cannot inherit. Finally, the proceeds of a wrongful death claim are not part of a decedent's estate. Brief of Appellant, pps. 31-32 It is clear that the legislature has chosen to treat inheritance differently than it does wrongful death beneficiary status. The argument advanced by Dillon and Laureenne fails for that reason as well.

Dillon and Laureenne refer to language in *Donnelly's Estate*, 81 Wn.2d 430, 502 P.2d 1163 (1973), to the effect that adoption has the effect of giving the adoptee a “fresh start” that “severs all ties to the past.” 81 Wn.2d at 436 This case and any of its progeny have no bearing on the question presented here. In that case, the Court interpreted RCW 11.04.085 to preclude an adoptee from inheriting from her natural grandparent. The Court in *Roderick's Estate*, *supra*, acknowledged that an adoptee's inheritance rights could be terminated by statute. 158 Wash. at 381; See also, *Estate of Wiltermood*, 78 Wn.2d 238, 241, 472 P.2d 536 (1970) The opinion in *Donnelly's Estate*, *supra*, did not mention either *Roderick's Estate*, *supra*, or *Hale v. Department of Labor and Industries*, *supra*, or address their statements that an adoptee remains a natural child of his or her natural parent in the absence of some statute terminating the relationship or otherwise ending a benefit based on the relationship.

In essence, Laureenne and Dillon are asserting that the thrust of the Court's opinion in *Roderick's Estate*, *supra*, and *Hale v. Department of Labor and Industries*, *supra*, were abrogated *sub silentio* by the Court in *Donnelly's Estates*, *supra*. Such a conclusion is warranted only if the statement in the later case directly contradicts the rule of law stated in the earlier case. Such a conclusion is disfavored because it does an injustice to parties who rely on the Supreme Court to provide clear rules of law and

also risks increasing litigation costs and delays to parties who cannot determine from Supreme Court precedent whether a rule of decisional law continues to be valid. *Lunsford v. Saberhagen Holdings, Inc.*, 166 Wn.2d 264, 280, 208 P.3d 1092 (2009) Furthermore, when two decisions may be harmonized, the later does not overrule or abrogate the earlier *sub silentio*. *Industrial Coatings Co. v. Fidelity and Deposit Company of Maryland*, 117 Wn.2d 511, 518-519, 817 P.2d 393 (1991)

There is no inconsistency between *Roderick's Estate, supra*, and *Hale v. Department of Labor and Industries, supra*, which relies on *Roderick's Estate, supra*, on the one hand, and *Donnelly's Estate, supra*, on the other. In *Roderick's Estate, supra*, and *Hale v. Department of Labor and Industries, supra*, the Court stated that an adoptee remains a child of his or her natural parents and retains all benefits of such a relationship in the absence of a statute taking those benefits away. In *Donnelly's Estate, supra*, the Court interpreted RCW 11.04.085, a statute that removed one of those rights, the right to inherit. *Donnelly's Estate, supra*, therefore carries on the teaching of *Roderick's Estate, supra*—once again, that a statute is necessary to remove an adoptee's rights stemming from the natural parent. The absence of any inconsistency is best illustrated by the absence of any reference to *Roderick's Estate, supra*, in the Court's opinion. Since there is no inconsistency, *Donnelly's Estate,*

supra, cannot be said to contradict what the Court said in *Roderick's Estate, supra*, and *Hale v. Department of Labor and Industries, supra*.

In any event, Washington statutes no longer support the notion that adoption “severs all ties to the past,” especially in the context of wrongful death recovery. The legislature has enacted a mechanism whereby adoptees and natural parents may contact each other if they so desire in RCW 26.33.343 - .347. Brief of Appellant, Appendix, pps. 48-55 The contact obviously allows for the establishment of a relationship between the adoptee and the natural parent or the family of the natural parent. This factor is critical in analyzing the question presented here—whether an adoptee is a “child” of the natural parent and therefore a beneficiary of a wrongful death action as stated in RCW 4.20.020. A wrongful death beneficiary is entitled to recover for “pecuniary loss” which is defined to include loss of the decedent’s support services, love, affection, care, companionship, society, and consortium. Brief of Appellant, p. 32 The statutes allowing for the establishment of contact between the adoptee and the natural parent create the possibility that the two will then form a relationship that will benefit both and therefore not “sever all ties to the past.” Furthermore, in such a situation, the adoptee will suffer a loss—a pecuniary loss compensable in a wrongful death action—if the natural parent dies due to the fault of a tortfeasor.

V. Personal Representatives Will Not Be Burdened by Holding That Adoptees Are Statutory Beneficiaries.

Dillon and Laureenne argue that allowing adoptees to be statutory beneficiaries will burden personal representatives in their pursuit of wrongful death claims. Brief of Respondent (Dillon, p. 21) That concern is belied by what occurred in this case. Laureenne applied to be personal representative of the Decedent's estate. She knew of Brandon's existence because both she and the Decedent maintained a relationship with him. She listed him as a son and heir of the Decedent on her petition to become personal representative.

That is not what happens with all adoptions. Some adoptees are adopted as infants in closed adoptions—where there is no subsequent contact between the natural parent and the adoptive family including the adoptee. There will then be no relationship between the adoptee and the natural parent. Since there is no relationship, even the existence of the adoptee may be unknown to the personal representative of the natural parent. But by the same token, the adoptee will suffer no pecuniary loss from the death of the decedent because of the absence of any relationship. Therefore, the failure to notify the adoptee will be harmless.

In any event, the burden is on a person claiming to be a beneficiary to prove his or her status. *Armijo v. Wesselius*, 73 Wn.2d 716, 720, 440 P.2d 471 (1968)—holding that a person claiming to be an “illegitimate” child of a wrongful decedent bears the burden of proving the relationship. This notion allays any fears of undue burden.

VI. Using the Common Definition of the Term, Brandon is a Child of the Decedent.

The parties agree that the term “child” is not defined in the wrongful death statute. They also agree that an undefined term must be given its dictionary definition. Brief of Appellant, pps. 8-10; Brief of Respondent (Dillon), pps. 5, 19-20. Brandon relies on the dictionary definition of the term “child”—a son or daughter. Dillon and Laurene ask the Court to review the meaning in Black’s Law Dictionary. That definition is virtually the same— a child is a son or daughter. Brief of Respondent (Dillon), p. 20.

The argument made by Dillon and Laurene misses the point. The issue here is not whether Brandon is a child of the Decedent. He obviously is. The question is whether that parent-child relationship was terminated by his adoption.

VII. Including Adoptees as Children for the Purposes of the Wrongful Death Statutes Will Not Lead to a Strained Result.

Citing *Lane v. Harborview Medical Center*, 154 Wn.App. 279, 289, 227 P.3d 297 (2010), Dillon and Laureenne contend that statutes should not be construed in a way that leads to a strained result and that allowing adoptees to be statutory beneficiaries would be strained. Brief of Respondent (Dillon), pps. 21-22 There is nothing strained about an adoptee being a statutory beneficiary. The key issue is the value of the adoptee's claim. That will depend on whether the adoptee has suffered any pecuniary loss which in turn will depend on the adoptee's relationship with the natural parent. Brief of Appellant, pps. 32-33 If the adoptee has no relationship, she will recover nothing. If, on the other hand, the adoptee has located her natural father and has begun a warm relationship with him, she will—and should—have a meritorious wrongful death claim.

There would be a strained result if an estranged unadopted child could conceivably make a wrongful death claim while an adoptee who had a good relationship with the natural parent could not. That appears to be the rule espoused by Dillon and Laureenne, however. It should be rejected. An adoptee should be able to make a wrongful death claim, and that claim should rise and fall on its merits.

VIII. Judicial Estoppel Requires that Brandon Be Deemed a Child of the Decedent.

Laurenne claims that judicial estoppel does not apply for two reasons. First, she claims that there is no inconsistency between her current position and her statements on her Petition for Letters of Administration that Brandon is a son and heir of the Decedent. Second, she states that she had no “manipulative motive.” These arguments misstate both the law and the facts.

Laurenne listed Brandon as an heir and son of the Decedent in the Petition for Letters of Administration. (CP 1) By doing so, she stated that Brandon was a child of the Decedent because, as all sides agree, the term “child” includes a son or a daughter. Ever since the wrongful death recovery was made, she has taken the position that Brandon is not a child of the Decedent and therefore not a statutory wrongful death beneficiary entitled to share in the settlement proceeds. The Brief of Respondent filed on behalf of Dillon took that position. Laurenne has adopted that position in her brief. Brief of Respondent (Laurenne), p. 4 Therefore, Laurenne is clearly taking a position that is inconsistent from the position she took

when she petitioned for Letters of Administration.²

In context, Laureenne's naming Brandon as a son of the Decedent on the Petition for Letters of Administration can only mean that she believed him to be a wrongful death beneficiary. As the petition states, the Decedent had no assets, and the probate was being filed for the sole purpose of pursuing the wrongful death claim. (CP 1-2) Only one conclusion is possible here—by naming Brandon as a son, and therefore a child of the Decedent in this context, Laureenne was indicating that he was indeed a statutory beneficiary. She is now taking a contrary position.

Laurenne goes on to argue that she had no “manipulative motive.” However, as all divisions of the Court of Appeals agree, neither a manipulative motive nor an intent to mislead is required to trigger judicial estoppel. *Cunningham v. Reliable Concrete Pumping, Inc.*, 126 Wn.App. 222, 234, 108 P.3d 147 (2005); *Deveny v. Hadaller*, 139 Wn.App. 605,

² Laureenne's positions are also internally inconsistent. The Brief of Respondent filed on behalf of Dillon states that Brandon cannot inherit from the Decedent. This is one of the arguments in that brief in support of his not being a wrongful death beneficiary. Brief of Respondent (Dillon) pps. 17-19 As noted above, Laureenne agrees with this assertion. Nonetheless, she claims that Brandon “*may* be an heir of the decedent.” She goes on to state that no one claims that Brandon is not a son of the decedent. Brief of Respondent (Laurenne), p. 8 But that is precisely the claim that has been made in the Brief of Respondent filed on behalf of Dillon and with which Laureenne has expressed her agreement.

621, 161 P.3d 1059 (2007); *Taylor v. Bell*, 185 Wn.App. 270, 282, 340 P.3d 951 (2014)

Finally, Laurene also states that she obtained no benefit from the Petition for Letters of Administration. She did receive a benefit, however—her appointment as personal representative to pursue the wrongful death action. Had there been no personal representative, there would have been no wrongful death action since any such action must be prosecuted by the personal representative.

In any event, judicial estoppel applies only if a litigant's prior inconsistent position benefited the litigant or was accepted by the court. Either of these two results permits the application of judicial estoppel. Both are not required. *Cunningham v. Reliable Concrete Pumping, Inc.*, *supra*, 122 Wn.App. at 230-31 This follows from the notion that judicial estoppel is a doctrine designed to protect the Court. *Johnson v. Si-Cor, Inc.*, 107 Wn.App. 902, 907, 28 P.3d 231 (2001) The Court obviously accepted what was contained in the petition because it appointed her to be personal representative and also waived the posting of any bond.

In short, there is a classic case for the application of judicial estoppel. Any arguments to the contrary lack merit.

REPLY ON ASSIGNMENT OF ERROR NO. 2

Brandon assigned error to the trial court's entry of the Order Approving Distribution Method for Wrongful Death Settlement for two reasons. First of all, consistent with his contention that he is a statutory beneficiary, he argued that the trial court erred because he received no portion of the settlement proceeds. Secondly, he urged that the order was improper because the trial court did not hold a hearing and enter findings of fact as to the damages of each of the beneficiaries before disbursing a portion of the wrongful death settlement proceeds. Brief of Appellant, pps. 37-40

Dillon and Laureenne have responded to this Assignment of Error by discussing that part of the order concerning security pending appeal and the subsequent order on that subject made by Commissioner Bearse. Brief of Respondent (Dillon), pps. 22-23; Brief of Respondent (Laurenne), p. 10 It can safely be said that the briefs filed on behalf of Dillon and Laureenne do argue that Brandon is entitled to no part of the wrongful death settlement. But neither brief has addressed the trial court's failure to hold a hearing and make findings of fact concerning the damages of each of the beneficiaries before it allowed any portion of the proceeds to be released to any of them. This should be taken as a concession by both Dillon and Laureenne that if the Court rules that Brandon is indeed a

statutory beneficiary—which it should, that the matter will have to remanded for further hearing to determine the damages suffered by each of the beneficiaries. The settlement proceeds will then have to be divided proportionally. The ultimate conclusion may be that Brandon is entitled to one-third, more than one-third, or less than one-third.

CONCLUSION

Brandon Saludaes is a statutory beneficiary entitled to participate in the distribution of the wrongful death proceeds. The Court should reverse the decision of the trial court to the contrary and remand for further proceedings to divide those proceeds. The further proceedings must include a hearing to assess the damages of each of the Decedent's three children.

DATED this 23 day of November, 2016.



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DEBORAH E. REID,

Deceased.

APPEAL FROM THE SUPERIOR COURT

HONORABLE SUZAN CLARK

DECLARATION OF ELECTRONIC TRANSMISSION

BEN SHAFTON

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COMES NOW Ben Shafton and declares as follows:

1. My name is Ben Shafton. I am a citizen of the United States, over the age of eighteen (18) years, a resident of the State of Washington, and am not a party to this action.

2. On November 23, 2016, I sent the Reply Brief and this declaration by e-mail to the following person(s):


Kathleen McCann—kathy @kmccannlaw.com

William Gaar—weg@buckley-law.com

Michael Higgins—mike_higgins@marsh-higgins.com

I DECLARE UNDER PENALTY OF PERJURY AND THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

DATED at Vancouver, Washington, this 23 day of November, 2016.


BEN SHAFTON